

*your copy*

**United States District Court**  
Southern District of New York  
Office of the Clerk  
U.S. Courthouse  
500 Pearl Street, New York, N.Y. 10007-1213

Date: February 7, 2008

Our case # : 07cv8404

Case Name: **Herbert H. Kliegerman et al. vs Apple, Inc. AT&T Mobility LLC**

**E-filing**

**FILED**  
FEB 12 2008  
RICHARD J. WHELAN  
CLERK, U.S. DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA

Dear Sir/Madam,

Enclosed is a certified copy of the civil docket sheet for the above referenced case that is being transferred to the United States District Court- of Northern District of California. The case file can be accessed through our CM/ECF System for the Southern District of New York. Please contact Ms. Martine Jock will furnish you with a CM/ECF Login and Password.

The enclosed copy of this letter is for your convenience in acknowledging receipt of these documents.

**\*\*Court policy for USDC-SDNY states that all ECF actions require only original, manual paper filings for the initiating documents. You may access our CM/ECF website for any additional documents that your court may require for processing.\*\***

Yours truly,

J. Michael McMahon  
Clerk of Court

Deputy Clerk,  
T. Rodriguez  
(ama)

Fed Ex Air bill # 8634 2697 0075

---

**RECEIPT IS ACKNOWLEDGED OF THE DOCUMENTS DESCRIBED HEREIN**

**AND ASSIGNED CASE NUMBER:**

**JSW**

*CV 08*  
CASE # **08**

**0948**

ON DATE:

**FEB 12 2008**

CASE TRANSFERRED OUT FORM

*08-948 JSW*

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

USDS SDNY DOCUMENT ELECTRONICALLY FILED DOC #: DATE FILED: 2-6-08
---

HERBERT H. KIEGERMAN, on behalf of  
himself and others similarly situated,

Plaintiff,

v.

APPLE, INC., AT&T MOBILITY LLC,

Defendants.

07 CV 8404 (PKC)

STIPULATION AND ORDER  
TRANSFERRING CASE TO THE  
UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT  
OF CALIFORNIA

WHEREAS, on January 18, 2008, Defendant Apple Inc. ("Apple") moved to transfer venue of this action to the United States District Court for the Northern District of California, pursuant to 28 U.S.C. § 1404(a), for the purpose of seeking to consolidate this action with a similar matter pending in that court titled *In re Apple & AT&TM Antitrust Litigation*, No. 07 C 05152 JW;

WHEREAS, Plaintiff has elected to consent to such transfer;

WHEREAS, Defendant AT&T Mobility LLC ("AT&TM") takes no position respecting the transfer, so long as its right to seek to compel arbitration of this action is preserved; and

WHEREAS, Defendant Apple has represented that upon transfer it will move the transferee court to have this action related to and consolidated with *In re Apple & AT&TM Antitrust Litigation*, No. 07 C 05152 JW.

IT IS HEREBY STIPULATED AND AGREED by the undersigned counsel for the respective parties that the Court may enter the following ORDER:

1. This action is hereby transferred to the United States District Court for the Northern District of California pursuant to 28 U.S.C. § 1404(a). The Clerk shall effectuate the transfer of this case to the United States District Court for the Northern District of California.
2. AT&TM's right to seek to compel arbitration of this case under applicable law is

preserved, as are all the other rights of the parties.

3. This stipulation may be signed in counterparts, with facsimile signatures binding as originals.

Dated: February 5, 2008

WOLF HALDENSTEIN ADLER  
FREEMAN & HERZ LLP

By: 

Mark C. Rifkin (MR-0904)  
Alexander H. Schmidt (AS-8304)  
270 Madison Ave.  
New York, NY 10016  
212.545.4600

Randall S. Newman  
Randall S. Newman, P.C.  
The Trump Building  
40 Wall Street, 61<sup>st</sup> Floor  
New York, NY 10005  
212.797.3737

Stephen P. DeNittis  
Schabel & DeNittis, P.C.  
5 Greentree Centre  
Suite 302  
Marlton, NJ 08053  
856.797.9951

*Attorneys for Plaintiff*  
Herbert H. Kligerman

IT IS SO ORDERED

By: 

P. Kevin Castel  
United States District Judge

2-6-08

CROWELL & MORING, LLP

By: 

Timothy J. Fierst (TF-3247)  
153 East 53rd Street, 31st Floor  
New York, NY 10022  
212.895.4263

*Attorneys for Defendant*  
AT&T Mobility LLC

LATHAM & WATKINS LLP

By: 

Christopher S. Yates (admitted pro hac vice)  
505 Montgomery Street  
San Francisco, CA 94111  
415.391.0600

*Attorneys for Defendant*  
Apple Inc.

A CERTIFIED COPY

J. MICHAEL McMAHON,

CLERK

BY 

DEPUTY CLERK

ECF

**U.S. District Court**  
**United States District Court for the Southern District of New York (Foley Square)**  
**CIVIL DOCKET FOR CASE #: 1:07-cv-08404-PKC**  
**Internal Use Only**

Kleigerman v. Apple, Inc.  
Assigned to: Judge P. Kevin Castel  
Case in other court: State Court-Supreme, 111681-07  
Cause: 28:1332 Diversity-Injunctive & Declaratory Relief

Date Filed: 09/27/2007  
Jury Demand: Plaintiff  
Nature of Suit: 890 Other Statutory  
Actions  
Jurisdiction: Federal Question

**Plaintiff**

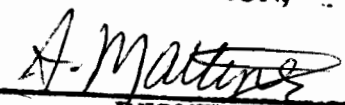
**Herbert H. Kliegerman**  
*on behalf of himself and others*  
*similarly situated*

represented by **Alexander H. Schmidt**  
Wolf Haldenstein Adler Freeman &  
Herz LLP  
270 Madison Avenue  
New York, NY 10016  
(212) 545.4723  
Fax: (212) 545.7494  
Email: schmidt@whafh.com  
**LEAD ATTORNEY**  
**ATTORNEY TO BE NOTICED**

**Randall Scott Newman**  
Newman & Associates, P.C.  
The Trump Building  
40 Wall Street  
61st Floor  
New York, NY 10005  
212-797-3737  
Fax: 212-797-3172  
Email: rsn@randallnewman.net  
**LEAD ATTORNEY**  
**ATTORNEY TO BE NOTICED**

**Stephen P. Denittis**  
Shabel & Denittis, P.C.  
5 Greentree Centre  
Suite 302  
Route 73 South  
Marlton, NJ 08054  
(856) 797-9951  
Fax: (856) 797-9978  
Email: sdenittis@shabeldenittis.com  
**PRO HAC VICE**  
**ATTORNEY TO BE NOTICED**

A CERTIFIED COPY  
J. MICHAEL McMAHON, .. CLERK

BY   
DEPUTY CLERK

V.

**Defendant**

**Apple, Inc.**

represented by **Christopher St John Yates**  
Latham & Watkins, LLP(SanFran)  
505 Montgomery Street, Ste. 2000  
San Francisco, CA 94111  
(415)-395-8157  
Fax: (415)-395-8095  
Email: chris.yates@lw.com  
**LEAD ATTORNEY**  
**ATTORNEY TO BE NOTICED**

**Hanno F. Kaiser**  
Latham & Watkins ,LLP  
885 Third Avenue, Suite 1000  
New York, NY 10022  
(212)-906-1252  
Fax: (212)-751-4864  
Email: hanno.kaiser@lw.com  
**LEAD ATTORNEY**  
**ATTORNEY TO BE NOTICED**

**Lawrence I. Weinstein**  
Proskauer Rose LLP (New York)  
1585 Broadway  
New York, NY 10036  
(212)-969-3240  
Fax: (212)-969-2900  
Email: lweinstein@proskauer.com  
**TERMINATED: 11/02/2007**  
**LEAD ATTORNEY**

**Michael T. Mervis**  
Proskauer Rose LLP (New York)  
1585 Broadway  
New York, NY 10036  
(212) 969-3565  
Fax: (212)-969-2900  
Email: mmervis@proskauer.com  
**TERMINATED: 11/02/2007**  
**LEAD ATTORNEY**

**Daniel Murray Wall**  
Latham & Watkins, LLP (SanFran)  
505 Montgomery Street, Ste. 2000  
San Francisco, CA 94111  
(415)-395-8240  
Fax: (415)-395-8095



Email: dan.wall@lw.com  
*PRO HAC VICE*  
*ATTORNEY TO BE NOTICED*

**John Dalgarno Roesser**  
 Proskauer Rose LLP (New York)  
 1585 Broadway  
 New York, NY 10036  
 (212-969-3388  
 Fax: (212-969-2900  
 Email: jroesser@proskauer.com  
*TERMINATED: 11/02/2007*

**Defendant**

**AT&T Mobility, LLC**

Date Filed	#	Docket Text
12/12/1978	20	LETTER addressed to Judge Castel from Daniel M. Wall dated 12/6/07 re: counsel writes on behalf of client to alert the Court that two related cases are currently pending. Document filed by Apple, Inc.(dj) (Entered: 12/18/2007)
09/27/2007	1	NOTICE OF REMOVAL from Supreme Court of the State of New York, County of New York. Case Number: 111681-07. (Filing Fee \$ 350.00, Receipt Number 628233).Document filed by Apple, Inc.. (Attachments: # 1 # 2)(jpo) (Entered: 10/02/2007)
09/27/2007		Magistrate Judge James C. Francis is so designated. (jpo) (Entered: 10/02/2007)
09/27/2007		Case Designated ECF. (jpo) (Entered: 10/02/2007)
09/27/2007	2	RULE 7.1 CORPORATE DISCLOSURE STATEMENT. No Corporate Parent. Document filed by Apple, Inc.(jpo) Additional attachment(s) added on 11/14/2007 (Rodriguez, Tiffany). (Entered: 10/02/2007)
10/02/2007	3	NOTICE of Filing of Notice of Removal re: 1 Notice of Removal. Document filed by Apple, Inc.. (Mervis, Michael) (Entered: 10/02/2007)
10/02/2007	4	NOTICE OF APPEARANCE by Randall Scott Newman on behalf of Herbert H. Kliegerman (Newman, Randall) (Entered: 10/02/2007)
10/03/2007	5	AFFIDAVIT OF SERVICE of NOTICE OF FILING OF NOTICE OF REMOVAL served on CLERK OF THE COURT, County of New York on 9-27-07. Service was accepted by Mr. Jack Doley. Document filed by Apple, Inc.. (Mervis, Michael) (Entered: 10/03/2007)
10/03/2007	6	AFFIDAVIT OF SERVICE of Defendant's NOTICE OF FILING OF REMOVAL; (II) PROCEDURES FOR ELECTRONIC CASE FILING; (III) 3rd AMENDED INSTRUCTIONS FOR FILING AN ELECTRONIC CASE; (IV) GUIDELINES FOR ELECTRONIC CASE

		FILING; (V) INDIVIDUAL PRACTICES OF P.KEVIN CASTEL; (VI) INDIVIDUAL PRACTICES OF JAMES C. FRANCIS served on RANDALL S. NEWMAN, P.C. on 9-27-07. Service was accepted by Randall S. Newman. Document filed by Apple, Inc.. (Mervis, Michael) (Entered: 10/03/2007)
10/04/2007	7	STIPULATION EXTENDING TIME TO APPEAR, ANSWER, MOVE OR OTHERWISE RESPOND: the time for defendant Apple, Inc. to appear, answer, move or otherwise respond to the complaint is extended to 10/26/07. Apple, Inc. answer due 10/26/2007. (Signed by Judge P. Kevin Castel on 10/4/07) (db) (Entered: 10/04/2007)
10/04/2007	8	ORDER RE SCHEDULING AND INITIAL PRETRIAL CONFERENCE: An Initial Conference is set for 11/2/2007 at 03:00 PM in Courtroom 12C, 500 Pearl Street, New York, NY 10007 before Judge P. Kevin Castel. (Signed by Judge P. Kevin Castel on 10/4/07) (db) (Entered: 10/04/2007)
10/05/2007	9	NOTICE OF APPEARANCE by John Dalgarno Roesser on behalf of Apple, Inc. (Roesser, John) (Entered: 10/05/2007)
10/25/2007	10	STIPULATION AND ORDER EXTENDING TIME TO APPEAR,ANSWER,MOVE, OR OTHERWISE RESPONE; Plaintiff will file and serve its Amended Complaint on November 16, 2007; The time for Apple to appear, answer, move, or otherwise respond to Plaintiff's Amended Complaint, shall be extended to December 13, 2007; If Apple moves to dismiss Plaintiff's Amended Complaint, Plaintiff's opposition to Apple's motion to dismiss shall be due on January 11, 2008 and Apple's reply brief in support of its motion to dismiss shall be due on February 1, 2008; This is the second request for an extension of time. Apple, Inc. answer due 12/13/2007. So Ordered. Amended Pleadings due by 11/16/2007, Responses due by 1/11/2008, Replies due by 2/1/2008. (Signed by Judge P. Kevin Castel on 10/25/2007) (jmi) Modified on 10/26/2007 (Miles, Janeen). (Entered: 10/26/2007)
11/02/2007	11	STIPULATION & ORDER SUBSTITUTING COUNSEL: that Hanno F. Kaiser of the law firm Latham Watkins, LLP be substituted as counsel for defendant in place and stead of Lawrence Weinstein, Michael Mervis, John D. Roesser and Anna Kaminska of the law firm Proskauer Rose LLP. (Signed by Judge P. Kevin Castel on 11/2/07) (db) (Entered: 11/02/2007)
11/02/2007		(Court only) ***Attorney Hanno F. Kaiser for Apple, Inc. added. Attorney Lawrence I. Weinstein; Michael T. Mervis and John Dalgarno Roesser terminated. (db) (Entered: 11/02/2007)
11/16/2007	12	AMENDED COMPLAINT against AT&T Mobility, LLC, Apple, Inc. Document filed by Herbert H. Kliegerman. (jco) (Entered: 11/19/2007)
11/29/2007	13	AFFIDAVIT OF SERVICE. AT&T Mobility, LLC served on 11/26/2007, answer due 12/17/2007. Service was accepted by Nikki Chapple Representative. Document filed by Herbert H. Kliegerman. (Schmidt, Alexander) (Entered: 11/29/2007)

12/07/2007	● <u>14</u>	FILING ERROR - ELECTRONIC FILING FOR NON-ECF DOCUMENT - MOTION for Extension of Time to File Answer (Stipulation). Document filed by Herbert H. Kliegerman.(Schmidt, Alexander) Modified on 12/10/2007 (KA). (Entered: 12/07/2007)
12/07/2007	●	(Court only) ***Motion(s) terminated: <u>14</u> MOTION for Extension of Time to File Answer (Stipulation) filed by Herbert H. Kliegerman. (KA) (Entered: 12/10/2007)
12/07/2007	● <u>18</u>	MOTION for Christopher S. Yates to Appear Pro Hac Vice for defendant Apple, Inc.Document filed by Apple, Inc.(db) (Entered: 12/14/2007)
12/10/2007	●	***NOTE TO ATTORNEY TO RE-FILE DOCUMENT - NON-ECF DOCUMENT ERROR. Note to Attorney Alexander H. Schmidt to E-MAIL pdf copy to orders_and_judgments@nysd.uscourts.gov Document No. <u>14</u> Stipulation. This document is not filed via ECF. (KA) (Entered: 12/10/2007)
12/10/2007	● <u>15</u>	ORDER ADMITTING ATTORNEY Daniel M. Wall PRO HAC VICE for defendant Apple, Inc. (Signed by Judge P. Kevin Castel on 12/7/07) (cd) (Entered: 12/10/2007)
12/10/2007	●	Transmission to Attorney Admissions Clerk. Transmitted re: <u>15</u> Order Admitting Attorney Pro Hac Vice, to the Attorney Admissions Clerk for updating of Attorney Information. (cd) (Entered: 12/10/2007)
12/10/2007	● <u>16</u>	ORDER ADMITTING ATTORNEY Christopher S. Yates PRO HAC VICE for defendant Apple Inc. (Signed by Judge P. Kevin Castel on 12/7/07) (cd) (Entered: 12/10/2007)
12/10/2007	●	Transmission to Attorney Admissions Clerk. Transmitted re: <u>16</u> Order Admitting Attorney Pro Hac Vice, to the Attorney Admissions Clerk for updating of Attorney Information. (cd) (Entered: 12/10/2007)
12/10/2007	●	(Court only) ***Motion(s) terminated: <u>18</u> MOTION for Christopher S. Yates to Appear Pro Hac Vice filed by Apple, Inc. (db) (Entered: 12/14/2007)
12/10/2007	● <u>19</u>	MOTION for Daniel M. Wall to Appear Pro Hac Vice for defendant Apple Inc. Document filed by Apple, Inc.(db) (Entered: 12/14/2007)
12/10/2007	●	(Court only) ***Motion(s) terminated: <u>19</u> MOTION for Daniel M. Wall to Appear Pro Hac Vice filed by Apple, Inc. (db) (Entered: 12/14/2007)
12/11/2007	● <u>22</u>	MOTION for Norman Shabel to Appear Pro Hac Vice. Document filed by Herbert H. Kliegerman. (jco) (Entered: 12/21/2007)
12/11/2007	● <u>23</u>	MOTION for Stephen P. DeNittis to Appear Pro Hac Vice. Document filed by Herbert H. Kliegerman. (jco) (Entered: 12/21/2007)
12/12/2007	● <u>17</u>	STIPULATION EXTENDING TIME TO APPEAR, ANSWER, MOVE OR OTHERWISE RESPOND: The defendants time to answer, move or otherwise respond to the amended complaint is extended to 1/10/08. If defendants respond by motion, plaintiffs are to respond by 2/25/08;



		defendants reply due 3/10/08. AT&T Mobility, LLC answer due 1/10/2008; Apple, Inc. answer due 1/10/2008. (Motions due by 1/10/2008. Responses due by 2/25/2008. Replies due by 3/10/2008.) (Signed by Judge P. Kevin Castel on 12/12/07) (db) (Entered: 12/13/2007)
12/19/2007	● <u>21</u>	ENDORSED LETTER addressed to Judge P. Kevin Castel from Daniel M. Wall dated 12/18/2007 re: This letter summarizes the basis for the anticipated motion to transfer only. ENDORSEMENT: Pre-motion conference waived. proceed with motion provided it is filed by 1/18/2008. Time to answer adjourned pending decision on motion to transfer. (Signed by Judge P. Kevin Castel on 12/19/2007) (jar) (Entered: 12/19/2007)
12/21/2007	●	CASHIERS OFFICE REMARK on <u>16</u> Order Admitting Attorney Pro Hac Vice, <u>15</u> Order Admitting Attorney Pro Hac Vice in the amount of \$50.00, paid on 12/07/2007, Receipt Number 635283. (jd) (Entered: 12/21/2007)
12/26/2007	● <u>24</u>	ENDORSED LETTER addressed to Judge P. Kevin Castel from Timothy Fierst dated 12/21/07 re: counsel for Defendant AT&T Mobility requests a pre-motion conference seeking leave to file a motion to compel arbitration. ENDORSEMENT: I will first consider the transfer motion. Thereafter, either this Court or the transferee court will consider the motion to compel arbitration as to defendant ATTM. So Ordered. (Signed by Judge P. Kevin Castel on 12/26/07) (dle) (Entered: 12/26/2007)
12/26/2007	●	CASHIERS OFFICE REMARK on <u>23</u> Motion to Appear Pro Hac Vice, <u>22</u> Motion to Appear Pro Hac Vice in the amount of \$50.00, paid on 12/11/2007, Receipt Number 635533. (jd) (Entered: 12/26/2007)
12/27/2007	● <u>25</u>	ORDER granting <u>23</u> Motion for Stephen P. DeNittis to Appear Pro Hac Vice for plaintiff. (Signed by Judge P. Kevin Castel on 12/27/07) (cd) (Entered: 12/27/2007)
12/27/2007	●	Transmission to Attorney Admissions Clerk. Transmitted re: <u>25</u> Order on Motion to Appear Pro Hac Vice, to the Attorney Admissions Clerk for updating of Attorney Information. (cd) (Entered: 12/27/2007)
12/27/2007	● <u>26</u>	ORDER granting <u>22</u> Motion for Norman Shabel to Appear Pro Hac Vice for plaintiff. (Signed by Judge P. Kevin Castel on 12/27/07) (cd) (Entered: 12/27/2007)
12/27/2007	●	Transmission to Attorney Admissions Clerk. Transmitted re: <u>26</u> Order on Motion to Appear Pro Hac Vice, to the Attorney Admissions Clerk for updating of Attorney Information. (cd) (Entered: 12/27/2007)
01/18/2008	<del>1</del> ● <u>27</u>	MOTION to Transfer Case <i>Defendant Apple Inc.'s Notice of Motion to Transfer Pursuant to 28 U.S.C. § 1404(a)</i> . Document filed by Apple, Inc..(Yates, Christopher) (Entered: 01/18/2008)
01/18/2008	● <u>28</u>	MEMORANDUM OF LAW in Support re: <u>27</u> MOTION to Transfer Case <i>Defendant Apple Inc.'s Notice of Motion to Transfer Pursuant to 28</i>

		<i>U.S.C. § 1404(a)</i> .. Document filed by Apple, Inc.. (Yates, Christopher) (Entered: 01/18/2008)
01/18/2008	● <u>29</u>	DECLARATION of Bob Borchers in Support re: <u>27</u> MOTION to Transfer Case <i>Defendant Apple Inc.'s Notice of Motion to Transfer Pursuant to 28 U.S.C. § 1404(a)</i> .. Document filed by Apple, Inc.. (Yates, Christopher) (Entered: 01/18/2008)
01/18/2008	● <u>30</u>	DECLARATION of Christopher S. Yates in Support re: <u>27</u> MOTION to Transfer Case <i>Defendant Apple Inc.'s Notice of Motion to Transfer Pursuant to 28 U.S.C. § 1404(a)</i> .. Document filed by Apple, Inc.. (Attachments: # <u>1</u> Exhibit A, # <u>2</u> Exhibit B, # <u>3</u> Exhibit C, # <u>4</u> Exhibit D, # <u>5</u> Exhibit E)(Yates, Christopher) (Entered: 01/18/2008)
01/18/2008	● <u>31</u>	NOTICE of Request for Judicial Notice re: <u>27</u> MOTION to Transfer Case <i>Defendant Apple Inc.'s Notice of Motion to Transfer Pursuant to 28 U.S.C. § 1404(a)</i> .. Document filed by Apple, Inc.. (Attachments: # <u>1</u> Exhibit A)(Yates, Christopher) (Entered: 01/18/2008)
02/06/2008	● <u>32</u>	STIPULATION AND ORDER TRANSFERRING CASE TO THE UNITED STATES DISTRICT COURT FOR THE NORTHERN DISTRICT OF CALIFORNIA: This action is hereby transferred to the U.S.D.C. for the Northern District of California pursuant to 28 U.S.C. 1404(a). The Clerk shall effectuate the transfer of this case to the U.S.D.C. for the Northern District of California. AT&TM's right to seek to compel arbitration of this case under applicable law is preserved, as are all other rights of the parties. (Signed by Judge P. Kevin Castel on 2/6/08) (tro) (Entered: 02/07/2008)